

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU


RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 03/05/2009

(Per: PJK)





Appendix A ... Part 01 of 03

 The 2009 drafting file for LRB-0525

has been transferred to the drafting file for

2009 LRB-1924

 This cover sheet, the final request sheet, and the final version of the 2009 draft were copied on yellow paper, and returned to the original 2005 drafting file.

 The attached 2009 draft was incorporated into the new 2009 draft listed above. For research purposes, this cover sheet and the complete drafting file were transferred, as a separate appendix, to the 2009 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

2009 DRAFTING REQUEST

Bill

Received: 10/09/2008

Received By: pkahler

Wanted: As time permits

Identical to LRB:

For: Judith Robson (608) 266-2253

By/Representing: Helen Dicks

This file may be shown to any legislator: NO

Drafter: pkahler

May Contact:

Addl. Drafters:

Subject: Insurance - auto
Transportation - other

Extra Copies: ARG, EVM

Submit via email: YES

Requester's email: Sen.Robson@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Uninsured and underinsured motorist coverage; auto insurance liability coverage limits

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 10/16/2008	bkraft 10/23/2008		_____			
/P1			phenry 10/23/2008	_____	lparisi 10/23/2008		

FE Sent For:

<END>

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/?	pkahler	1/Pl bjk 10/23					
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FE Sent For:

<END>

Kahler, Pam

From: Hanaman, Cathlene
Sent: Wednesday, October 08, 2008 9:36 AM
To: Kahler, Pam; Dodge, Tamara
Subject: FW: here we go again!

Attachments: Revision to bill draft.doc

Not mine anymore--enjoy!

From: Dicks, Helen
Sent: Wednesday, October 08, 2008 9:31 AM
To: Hanaman, Cathlene
Subject: here we go again!

This is the new start of our old under insured not insured draft. When you get a chance to read give



Revision to bill
draft.doc (35...

me a call. Thanks

Helen Marks Dicks
Office of Senator Judy Robson
608 266-2253

my latest is P3

121.555(2)(a)

616.72

Changes to LRB – 3161/P2

Changing the limits of liability for motor vehicle policies:

344.01 (2)(d) “Proof of financial responsibility” or “proof of financial responsibility for the future” means proof of ability to respond in damages for liability on account of accidents occurring subsequent to the effective date of such proof, arising out of the maintenance or use of a motor vehicle in the amount of \$100,000 ~~\$25,000~~ because of bodily injury to or death of one person in any one accident and, subject to such limit for one person, in the amount of \$300,000 ~~\$50,000~~ because of bodily injury to or death of 2 or more persons in any one accident and in the amount of \$25,000 ~~\$10,000~~ because of injury to or destruction of property of others in any one accident.

344.15 Requirements as to policy or bond. (1) No policy or bond is effective under s. 344.14 unless issued by an insurer authorized to do an automobile liability or surety business in this state, except as provided in sub. (2), or unless the policy or bond is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than \$100,000 ~~\$25,000~~ because of bodily injury to or death of one person in any one accident and, subject to that limit for one person, to a limit of not less than \$300,000 ~~\$50,000~~ because of bodily injury to or death of 2 or more persons in any one accident and, if the accident has resulted in injury to or destruction of property, to a limit of not less than \$25,000 ~~\$10,000~~ because of injury to or destruction of property of others in any one accident.

344.33 “Motor vehicle liability policy” defined. (1) CERTIFICATION. In this chapter, “motor vehicle liability policy” means a motor vehicle policy of liability insurance, certified as provided in s. 344.31 or 344.32 as proof of financial responsibility for the future, and issued, except as otherwise provided in s. 344.32, by an insurer authorized to do an automobile liability business in this state to or for the benefit of the person named in the policy as the insured.

(2) MOTOR VEHICLE LIABILITY POLICY. A motor vehicle policy of liability insurance shall insure the person named therein using any motor vehicle with the express or implied permission of the owner, or shall insure any motor vehicle owned by the named insured and any person using such motor vehicle with the express or implied permission of the named insured, against loss from the liability imposed by law for damages arising out of the maintenance or use of the motor vehicle within the United States of America or the Dominion of Canada, subject to the limits exclusive of interest and costs, with respect to each such motor vehicle as follows: \$100,000 ~~\$25,000~~ because of bodily injury to or death of one person in any one accident and, subject to such limit for one person, \$300,000 ~~\$50,000~~ because of bodily injury to or death of 2 or more persons in any one accident, and \$25,000 ~~\$10,000~~ because of injury to or destruction of property of others in any one accident.

Changing the limits of UM/UIM and Medical Payments

✓ **632.32 (4) (a) 1.** the limits should then be raised to \$100,000/\$300,000 from \$25,000/\$50,000.

✓ **632.32 (4) (a) (2m)** the limits should then be raised to \$100,000/\$300,000 from \$25,000/\$50,000.

✓ **632.32 (4) (a) 3m** the limits should be raised from \$1,000 to \$10,000.

Adding provision on revision of UM/UIM language.

New provision at 632.32 (4r) (d): Failure to provide notice of UM and UIM coverage in umbrella or excess insurance policies will result in reformation of the insurance policy to an amount equal to the other umbrella or excess coverage purchased.

UM + UIM cov
important?

Adding provision on payment of health insurance. (Not sure where this fits in § 632.32.)

A health insurer may not refuse payment on an insured's behalf based on the claim that a liability insurer may be liable.

specifically medical payments or not?
(put in next subch.)
doesn't matter who has the insurance
(insured or tortfeasor?)

Kahler, Pam

From: Kahler, Pam
Sent: Thursday, October 09, 2008 3:26 PM
To: Dicks, Helen
Subject: UM and UIM coverage draft

Helen,

I have the following questions for you related to the draft:

1. Do you also want to increase the limits (to \$100,000/300,000) in ss. 121.555 (2) (a) and 616.72?
2. For the provision related to prohibiting a health insurer from refusing payment, does that refer to *any* type of liability policy (not just med payments under an auto policy) and does it also refer to a liability policy covering *either* the person receiving the health care treatment or a person who may be a tortfeasor? In other words, should the provision be as broad as possible?
3. For the provision related to not providing notice of UM and UIM coverage in an umbrella or excess insurance policy, should the policy be reformed to provide *UM and UIM coverage* in the policy limits? Also, should that be limited only to policies that do not include UM or UIM coverage, regardless of whether written notice was given? If the policy includes that coverage, it would seem that notice that such coverage is available was implicitly or orally given, even if not given in writing as required under the statute.

Thanks.

Pamela J. Kahler
Legislative Attorney
Legislative Reference Bureau
608-266-2682



State of Wisconsin
2007-2008 LEGISLATURE
2009-2010

-0525/P1
LRB-3161/P2
PJK:6161/6161
Lejk

note 72

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Please PWF

Inserts

note
(in 10-16)

SAV
X-ref

regenerate

coverage limits for

1 AN ACT *to repeal* 632.32 (4) (a) (title), 632.32 (4) (a) 2., 632.32 (4) (b) (title) and
2 632.32 (4m); *to renumber* 632.32 (2) (a) and 632.32 (2) (c); *to renumber and*
3 *amend* 632.32 (4) (intro.), 632.32 (4) (a) 3., 632.32 (4) (b), 632.32 (5) (f), 632.32
4 (5) (g), 632.32 (5) (h), 632.32 (5) (i) and 632.32 (5) (j); *to amend* 62.67, 631.43
5 (3), 632.32 (4) (title) and 632.32 (4) (a) 1.; and *to create* 632.32 (2) (am), 632.32
6 (2) (cm), 632.32 (2) (d), 632.32 (2) (e), 632.32 (2) (f), 632.32 (2) (g), 632.32 (4) (a)
7 2m., 632.32 (4) (bc) and 632.32 (4r) of the statutes; **relating to:** uninsured and
8 underinsured motorist coverages and prohibited provisions in motor vehicle
9 liability insurance policies.

Analysis by the Legislative Reference Bureau

Under current law, all motor vehicle liability insurance policies must include uninsured motorist coverage in limits of at least \$25,000 per person and \$50,000 per accident and medical payments coverage in the amount of at least \$1,000 per person. Uninsured motorist coverage provides coverage for persons who are legally entitled to recover damages for bodily injury from owners or operators of motor vehicles that are not insured. Medical payments coverage pays for medical or chiropractic services provided to persons who are injured while using the insured motor vehicle. **Current**

Insert A-2

Insert A-1

a health care claim on the basis that a liability insurance policy is liable

payment for

law, while not requiring that motor vehicle liability insurance policies include underinsured motorist coverage, requires insurers to provide written notice of the availability of that coverage to one insured under each policy written after October 1, 1995, that does not include the coverage, as well as to one insured under each motor vehicle liability insurance policy in effect on that date that did not include the coverage. Underinsured motorist coverage provides coverage for persons who are legally entitled to recover damages for bodily injury from owners or operators of underinsured motor vehicles. "Underinsured motor vehicle" is not defined in the statutes.

This bill eliminates the requirement to provide notice of the availability of underinsured motorist coverage and requires every motor vehicle liability insurance policy to include the coverage in limits of at least ~~\$25,000~~ per person and ~~\$50,000~~ per accident. In addition, the bill defines an underinsured motorist vehicle as a motor vehicle that is involved in an accident with an insured and which, at the time of the accident, was covered by a motor vehicle liability insurance policy with limits that are less than the amount needed to fully compensate the insured for his or her damages.

Under current law, an uninsured motor vehicle is defined to include "an unidentified motor vehicle involved in a hit-and-run accident." The Wisconsin Supreme Court has held that, under this definition, actual contact is necessary. Consequently, uninsured motorist coverage does not apply if, for example, a motor vehicle is run off the road by another motor vehicle without actual contact between the two vehicles. The bill changes this so that actual contact is not necessary for uninsured motorist coverage to apply. All that is required is that an unidentified motor vehicle be involved in the accident.

Current law specifies a number of provisions that are permissible in a motor vehicle liability insurance policy and a number of provisions that are prohibited in such a policy. The bill makes the following currently permissible provisions prohibited in a motor vehicle liability insurance policy:

1. Providing that, regardless of the number of policies, persons, or vehicles involved, the limits for coverage under the policy may not be added to the limits for similar coverage applying to other motor vehicles to determine an overall limit of coverage available for a person in any one accident.
2. Providing that the maximum amount of uninsured or underinsured motorist coverage available for bodily injury or death suffered by a person not using a motor vehicle in an accident (such as a pedestrian) is any single limit of uninsured or underinsured motorist coverage for any vehicle with respect to which the person is insured at the time of the accident.
3. Providing that the maximum amount of medical payments coverage available for bodily injury or death suffered by a person not using a motor vehicle in an accident is any single limit of medical payments coverage for any vehicle with respect to which the person is insured at the time of the accident.
4. Providing that the limits under the policy for uninsured or underinsured motorist coverage for bodily injury or death resulting from an accident shall be reduced by amounts paid or payable by or on behalf of a person or organization that

is legally responsible for the bodily injury or death; amounts paid or payable under any worker's compensation law; or amounts paid or payable under any disability benefits laws.

5. Providing that any coverage under the policy does not apply to a loss resulting from the use of a motor vehicle that is owned by the named insured or a spouse or relative of the named insured who lives in the named insured's household, that is not described in the policy, and that is not covered under the terms of the policy as a newly acquired or replacement motor vehicle.

Finally, the bill requires an insurer that writes umbrella or excess liability policies that cover motor vehicle liability to make a written offer of both uninsured motorist coverage and underinsured motorist coverage whenever application is made for such an umbrella or excess liability policy. The bill also requires an insurer to make a written offer of uninsured motorist coverage at the first renewal after the effective date of the bill of such a policy that does not include that coverage and a written offer of underinsured motorist coverage at the first renewal after the effective date of the bill of such a policy that does not include that coverage. An applicant or insured may reject the coverage, but must do so in writing.

Insert A-5

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 62.67 of the statutes is amended to read:

2 **62.67 Uninsured motorist coverage; 1st class cities.** A 1st class city shall
3 provide uninsured motorist motor vehicle liability insurance coverage for motor
4 vehicles owned by the city and operated by city employees in the course of
5 employment. The coverage required by this section shall have at least the limits
6 prescribed for uninsured motorist coverage under s. 632.32 (4) (a) 1.

7 SECTION 2. 631.43 (3) of the statutes is amended to read:

8 **631.43 (3) EXCEPTION.** Subsection (1) does not affect the rights of insurers to
9 exclude, limit or reduce restrict coverage under s. 632.32 (5) (b), or (c) or (f) to (j).

10 SECTION 3. 632.32 (2) (a) of the statutes is renumbered 632.32 (2) (at).

11 SECTION 4. 632.32 (2) (am) of the statutes is created to read:

Insert 3-6

1 ✓ 632.32 (2) (am) "Medical payments coverage" means coverage to indemnify for
2 medical payments or chiropractic payments or both for the protection of all persons
3 using ~~an~~ ^{the} insured motor vehicle from losses resulting from bodily injury or death.

> ****NOTE: This definition follows the language of the first sentence under current
 law s. 632.32 (4) (b). Is it OK, or would you prefer to retain any of this language in sub.
 (4) and not include it here in the definition?

4 ~~SECTION 5.~~ 632.32 (2) (c) of the statutes is renumbered 632.32 (2) (h).

5 ~~SECTION 6.~~ 632.32 (2) (cm) of the statutes is created to read:

6 ✓ 632.32 (2) (cm) "Umbrella or excess liability policy" means an insurance
7 contract providing at least \$1,000,000 of liability coverage per person or per
8 occurrence in excess of certain required underlying liability insurance coverage or
9 a specified amount of self-insured retention. ✓

10 ~~SECTION 7.~~ 632.32 (2) (d) of the statutes is created to read:

11 ✓ 632.32 (2) (d) "Underinsured motor vehicle" means a motor vehicle to which all
12 of the following apply: ✓

13 1. The motor vehicle is involved in an accident with a person who has
14 underinsured motorist coverage. ✓

15 2. A bodily injury liability insurance policy applies to the motor vehicle at the
16 time of the accident. ✓

17 3. The limits under the bodily injury liability insurance policy are less than the
18 amount needed to fully compensate the insured for his or her damages. ✓

19 ~~SECTION 8.~~ 632.32 (2) (e) of the statutes is created to read:

20 ✓ 632.32 (2) (e) "Underinsured motorist coverage" means coverage for the
21 protection of persons insured under that coverage who are legally entitled to recover
22 damages for bodily injury, death, sickness, or disease from owners or operators of
23 underinsured motor vehicles. ✓

1 **SECTION 9.** 632.32 (2) (f) of the statutes is created to read:

2 ✓ 632.32 (2) (f) "Uninsured motor vehicle" means a motor vehicle that is involved
3 in an accident with a person who has uninsured motorist coverage and with respect
4 to which, at the time of the accident, a bodily injury liability insurance policy is not
5 in effect and the owner or operator has not furnished proof of financial responsibility
6 for the future under subch. III of ch. 344. "Uninsured motor vehicle" also includes
7 both of the following motor vehicles involved in an accident with a person who has
8 uninsured motorist coverage: ✓

9 1. An insured motor vehicle if before or after the accident the liability insurer
10 of the motor vehicle is declared insolvent by a court of competent jurisdiction. ✓

11 2. An unidentified motor vehicle. ✓

12 **SECTION 10.** 632.32 (2) (g) of the statutes is created to read:

13 ✓ 632.32 (2) (g) "Uninsured motorist coverage" means coverage for the protection
14 of persons insured under that coverage who are legally entitled to recover damages
15 for bodily injury, death, sickness, or disease from owners or operators of uninsured
16 motor vehicles. ✓

17 **SECTION 11.** 632.32 (4) (title) of the statutes is amended to read:

18 ✓ 632.32 (4) (title) REQUIRED UNINSURED MOTORIST, UNDERINSURED MOTORIST, AND
19 MEDICAL PAYMENTS COVERAGES.

20 **SECTION 12.** 632.32 (4) (intro.) of the statutes is renumbered 632.32 (4) (a)
21 (intro.) and amended to read:

22 632.32 (4) (a) (intro.) Every policy of insurance subject to this section that
23 insures with respect to any motor vehicle registered or principally garaged in this
24 state against loss resulting from liability imposed by law for bodily injury or death
25 suffered by any person arising out of the ownership, maintenance or use of a motor

(except 632.32 (4) (title))

1 vehicle shall contain therein or supplemental thereto provisions approved by the
2 commissioner for all of the following coverages:

3 SECTION 13. 632.32 (4) (a) (title) of the statutes is repealed.

4 SECTION 14. 632.32 (4) (a) 1. of the statutes is amended to read:

5 632.32 (4) (a) 1. For the protection of persons injured who are legally entitled
6 to recover damages from owners or operators of uninsured motor vehicles because
7 of bodily injury, sickness or disease, including death resulting therefrom Uninsured
8 motorist coverage, in limits of at least ~~\$25,000~~ ^{\$100,000} per person and ~~\$50,000~~ ^{\$300,000} per accident.

9 SECTION 15. 632.32 (4) (a) 2. of the statutes is repealed.

10 SECTION 16. 632.32 (4) (a) 2m. of the statutes is created to read:

11 632.32 (4) (a) 2m. Underinsured motorist coverage, in limits of at least ~~\$25,000~~ ^{\$100,000}
12 per person and ~~\$50,000~~ ^{\$300,000} per accident.

13 SECTION 17. 632.32 (4) (a) 3. of the statutes is renumbered 632.32 (4) (c) and
14 amended to read:

15 632.32 (4) (c) Insurers Unless an insurer waives the right to subrogation,
16 insurers making payment under the uninsured motorists' coverage any of the
17 coverages under this subsection shall, to the extent of the payment, be subrogated
18 to the rights of their insureds.

19 SECTION 18. 632.32 (4) (b) (title) of the statutes is repealed.

20 SECTION 19. 632.32 (4) (b) of the statutes is renumbered 632.32 (4) (a) 3m. and
21 amended to read:

22 632.32 (4) (a) 3m. To indemnify for medical payments or chiropractic payments
23 or both Medical payments coverage in the amount of at least ~~\$1,000~~ ^{\$10,000} per person for
24 protection of all persons using the insured motor vehicle from losses resulting from
25 bodily injury or death. The named insured may reject the coverage. If the named

1 ~~insured rejects the coverage, it need not be provided in a subsequent renewal policy~~
2 ~~issued by the same insurer unless the insured requests it in writing. Under the~~
3 ~~medical or chiropractic payments coverage, the insurer shall be subrogated to the~~
4 ~~rights of its insured to the extent of its payments.~~ Coverage written under this
5 paragraph subdivision may be excess coverage over any other source of
6 reimbursement to which the insured person has a legal right.

7 **SECTION 20.** 632.32 (4) (bc) of the statutes is created to read:

8 632.32 (4) (bc) Notwithstanding par. (a) 3m., the named insured may reject
9 medical payments coverage. If the named insured rejects the coverage, the coverage
10 need not be provided in a subsequent renewal policy issued by the same insurer
11 unless the insured requests it in writing.

12 **SECTION 21.** 632.32 (4m) of the statutes is repealed.

13 **SECTION 22.** 632.32 (4r) of the statutes is created to read:

14 632.32 (4r) REQUIRED WRITTEN OFFERS OF UNINSURED MOTORIST AND
15 UNDERINSURED MOTORIST COVERAGES FOR UMBRELLA OR EXCESS LIABILITY POLICIES. (a)
16 An insurer writing umbrella or excess liability policies that insure with respect to a
17 motor vehicle registered or principally garaged in this state against loss resulting
18 from liability imposed by law for bodily injury or death suffered by a person arising
19 out of the ownership, maintenance, or use of a motor vehicle shall provide written
20 offers of uninsured motorist coverage and underinsured motorist coverage, which
21 offers shall include a brief description of the coverage offered. An insurer is required
22 to provide the offers required under this subsection only one time with respect to any
23 policy in the manner provided in par. (b).

24 (b) 1. Each application for an umbrella or excess liability policy issued on or
25 after the effective date of this subdivision [revisor inserts date], shall contain a

1 written offer of uninsured motorist coverage and a written offer of underinsured
2 motorist coverage.

3 2. For umbrella or excess liability policies that are in effect on the effective date
4 of this subdivision [revisor inserts date], the insurer shall provide a written offer
5 of uninsured motorist coverage to the named insureds under each policy that does
6 not include uninsured motorist coverage and a written offer of underinsured
7 motorist coverage to the named insureds under each policy that does not include
8 underinsured motorist coverage. The insurer shall provide an offer under this
9 subdivision in conjunction with the notice of the first renewal of the policy occurring
10 after the effective date of this subdivision [revisor inserts date].

11 (c) An applicant or named insureds may reject one or both of the coverages
12 offered, but must do so in writing. If the applicant or named insureds reject either
13 of the coverages offered, the insurer is not required to provide the rejected coverage
14 under a policy that is renewed to the person by that insurer unless an insured under
15 the policy subsequently requests the rejected coverage in writing.

16 **SECTION 23.** 632.32 (5) (f) of the statutes is renumbered 632.32 (6) (d) and
17 amended to read:

18 632.32 (6) (d) ~~A~~ No policy may provide that, regardless of the number of
19 policies involved, vehicles involved, persons covered, claims made, vehicles or
20 premiums shown on the policy, or premiums paid, the limits for any coverage under
21 the policy may not be added to the limits for similar coverage applying to other motor
22 vehicles to determine the limit of insurance coverage available for bodily injury or
23 death suffered by a person in any one accident.

24 **SECTION 24.** 632.32 (5) (g) of the statutes is renumbered 632.32 (6) (e) and
25 amended to read:

Insert 8-15

1 ✓ 632.32 (6) (e) ~~A~~ No policy may provide that the maximum amount of uninsured
2 motorist coverage or underinsured motorist coverage available for bodily injury or
3 death suffered by a person who was not using a motor vehicle at the time of an
4 accident is the ~~highest~~ any single limit of uninsured motorist coverage or
5 underinsured motorist coverage, whichever is applicable, for any motor vehicle with
6 respect to which the person is insured.✓

7 ~~SECTION 25.~~ 632.32 (5) (h) of the statutes is renumbered 632.32 (6) (f) and
8 amended to read:

9 ✓ 632.32 (6) (f) ~~A~~ No policy may provide that the maximum amount of medical
10 payments coverage available for bodily injury or death suffered by a person who was
11 not using a motor vehicle at the time of an accident is the ~~highest~~ any single limit of
12 medical payments coverage for any motor vehicle with respect to which the person
13 is insured.

14 ~~SECTION 26.~~ 632.32 (5) (i) of the statutes is renumbered 632.32 (6) (g), and
15 632.32 (6) (g) (intro.), as renumbered, is amended to read:

16 632.32 (6) (g) (intro.) ~~A~~ No policy may provide that the limits under the policy
17 for uninsured motorist coverage or underinsured motorist coverage for bodily injury
18 or death resulting from any one accident shall be reduced by any of the following that
19 apply:✓

20 ~~SECTION 27.~~ 632.32 (5) (j) of the statutes is renumbered 632.32 (6) (h), and
21 632.32 (6) (h) (intro.), as renumbered, is amended to read:

22 ✓ 632.32 (6) (h) (intro.) ~~A~~ No policy may provide that any coverage under the
23 policy does not apply to a loss resulting from the use of a motor vehicle that meets
24 all of the following conditions:

25 **SECTION 28. Initial applicability.**

Insert 9-24

12.0555 (2) (a)

(1) The treatment of sections 62.67, 631.43 (3), and 632.32 (2) (a), (am), (c), (cm), (d), (e), (f), and (g), (4) (title), (intro.), (a) (title), 1., 2., 2m., and 3., (bc), (4m), and (5) (f), (g), (h), (i), and (j) of the statutes, the repeal of section 632.32 (4) (b) (title) of the statutes, and the renumbering and amendment of section 632.32 (4) (b) of the statutes first apply to motor vehicle insurance policies issued or renewed on the effective date of this subsection.

SECTION 29. Effective date.

(1) This act takes effect on the first day of the 5th month beginning after publication.

(END)

CS
Motor vehicle insurance coverages

D-note

RESEARCH APPENDIX - Draft Transfer/Copy Request Form

- Atty's please complete this form and give to Mike Barman

(Request Made By: PJK) (Date: 10 / 10 / 08)



☒ Please transfer the drafting file for

2007 LRB 3161 to the drafting file

for **2009 LRB** 0525

The final version of the 2007 draft and the final Request Sheet will be copied on yellow paper, and returned to the original 2007 drafting file. A new cover sheet will be created/included listing the new location of the drafting file's "guts".

For research purposes, because the 2007 draft was incorporated into a new 2009 draft, the complete drafting file will be transferred, as a separate appendix, to the new 2009 drafting file. This request form will be inserted into the "guts" of the 2009 draft. If introduced, the appendix will be scanned/added to the electronic drafting file folder.

--OR--

☒ Please copy the drafting file for

²⁰⁰⁷
2009 LRB 3161 / all (include the version) and place it in the

drafting file for **2009 LRB** 0525

For research purposes, because the original 2009 draft was incorporated into another 2009 draft, the original drafting file will be copied on yellow paper (darkened/auto centered/reduced to 90%) and added, as a separate appendix, to the new 2009 drafting file. This request form will be inserted into the "guts" of the new 2009 draft. If introduced the appendix will be scanned/added to the electronic drafting file folder.

The original drafting file will then returned, intact, to its folder and filed. For future reference, a copy of the transfer/copy request form will also be added to the "guts" of the original draft.

**2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0525/ins
PJK:.....

Ljk

INSERT A-1

LPS - Please check spelling.

Proof of financial responsibility

Current law does not generally require motor vehicles operated in this state to be covered by policies of bodily injury and property damage liability insurance. However, current law imposes certain financial responsibility requirements on owners and operators of motor vehicles involved in accidents. If a motor vehicle accident results in injury, death, or property damage of \$1,000 or more, the Department of Transportation (DOT) is required to notify the operator and owner of the vehicle involved in the accident that the person must deposit with DOT security for the accident in an amount specified by DOT, which DOT has determined is sufficient to satisfy any judgment for damages resulting from the accident. Unless an exception applies, if a person fails to timely deposit security after this notice, DOT must suspend the person's operating privilege if the person was the vehicle operator and suspend all vehicle registrations of the person if the person was the vehicle owner. One of the exceptions is that the person provides proof of financial responsibility. In addition, if DOT receives a certified copy of a judgment for damages of \$500 or more arising out of a motor vehicle accident, DOT must immediately suspend the operating privilege and all registrations of the person against whom the judgment was rendered unless the person can provide proof of financial responsibility. In both situations, proof of financial responsibility includes coverage under a motor vehicle liability insurance policy with the following minimum limits for any single accident: \$25,000 for bodily injury to or death of one person, \$50,000 for bodily injury to or death of more than one person, and \$10,000 for property damage. This bill increases the minimum limits required under a policy that is acceptable proof of financial responsibility to \$100,000 for bodily injury to or death of one person, \$300,000 for bodily injury to or death of more than one person, and \$25,000 for property damage.

> *Uninsured motorist and medical payments coverage*

(END OF INSERT A-1)

INSERT A-2

The bill increases the level of uninsured motorist coverage that motor vehicle liability insurance policies must include to \$100,000 per person and \$300,000 per accident, and increases the level of medical payments coverage that those policies must include to \$10,000.

Underinsured motorist coverage

Current

(END OF INSERT A-2)

INSERT A-3

(go to top of p. 2) of draft

WOF

Insert A-3

If an insured accepts underinsured motorist coverage after receiving notice of its availability, the policy must include the coverage in limits of at least \$50,000 per person and \$100,000 per accident.

(END OF INSERT A-3)

INSERT A-4

Umbrella and excess liability insurance policies

Q The Wisconsin Administrative Code exempts umbrella and excess liability insurance policies from the requirement under the statutes that a policy covering motor vehicle liability must include underinsured motorist coverage. Nothing in current law, however, exempts an insurer writing umbrella or excess liability insurance policies from the requirement to provide notice of the availability of underinsured motorist coverage. The bill affirmatively requires an insurer that writes umbrella or excess liability policies that cover motor vehicle liability to make a written offer of both underinsured motorist coverage and underinsured motorist coverage whenever application is made for such an umbrella or excess liability policy. The bill also requires an insurer to make a written offer of underinsured motorist coverage at the first renewal after the effective date of the bill of such a policy that does not include that coverage and a written offer of underinsured motorist coverage at the first renewal after the effective date of the bill of such a policy that does not include that coverage. An applicant or insured may reject the coverage, but must do so in writing. The bill provides that, if an insurer fails to provide a required written offer of underinsured or underinsured motorist coverage and the umbrella or excess liability policy does not include the coverage, or coverages, for which an offer was not given, a court must, on the request of the insured, reform the policy to include the coverage or coverages with the same limits as the liability coverage limits under the policy. This result modifies the decision of the Wisconsin Supreme Court in *Stone v. Acuity*, 2008 WI 30, 308 Wis. 2d 558, 747 N.W. 2d 766. In that case, the insurer had failed to provide notice of the availability of underinsured coverage for an umbrella insurance policy and the policy did not include that coverage. The court determined that in such a case the policy should be reformed to include underinsured coverage in the minimum amount that is required under the statute (\$50,000 per person and \$100,000 per accident).

Miscellaneous motor vehicle liability insurance provisions

(END OF INSERT A-4)

INSERT A-5

Ins A-5

Requirement for health insurer to cover claims ✓

4 Finally, the bill prohibits a health insurer from refusing to cover claims for health care services provided to an insured on the basis that there may be coverage for those services under a liability insurance policy. ✓

(END OF INSERT A-5)

INSERT 3-6

1 **SECTION 1.** 121.555 (2) (a) of the statutes is amended to read:

2 121.555 (2) (a) *Insurance.* If the vehicle is owned or leased by a school or a
3 school bus contractor, or is a vehicle authorized under sub. (1) (b), it shall comply with
4 s. 121.53. If the vehicle is transporting 9 or less persons in addition to the operator
5 and is not owned or leased by a school or by a school bus contractor, it shall be insured
6 by a policy providing property damage coverage with a limit of not less than \$10,000
7 \$25,000 and bodily injury liability coverage with limits of not less than \$25,000
8 \$100,000 for each person, and, subject to the limit for each person, a total limit of not
9 less than \$50,000 \$300,000 for each accident.

History: 1983 a. 175; 1985 a. 100, 240, 332, 337; 1987 a. 3, 358; 1989 a. 105, 176, 359; 1991 a. 39, 277; 1995 a. 113; 2003 a. 280.

10 **SECTION 2.** 344.01 (2) (d) of the statutes is amended to read:

11 344.01 (2) (d) "Proof of financial responsibility" or "proof of financial
12 responsibility for the future" means proof of ability to respond in damages for
13 liability on account of accidents occurring subsequent to the effective date of such
14 proof, arising out of the maintenance or use of a motor vehicle in the amount of
15 \$25,000 \$100,000 because of bodily injury to or death of one person in any one
16 accident and, subject to such limit for one person, in the amount of \$50,000 \$300,000
17 because of bodily injury to or death of 2 or more persons in any one accident and in
18 the amount of \$10,000 \$25,000 because of injury to or destruction of property of
19 others in any one accident.

History: 1971 c. 277; 1973 c. 90; 1977 c. 293; 1981 c. 284; 1985 a. 187; Sup. Ct. Order, 146 Wis. 2d xiii (1988); 1997 a. 27; 2001 a. 90.

The Wisconsin Administrative Code exempts umbrella and excess liability insurance policies from the requirement under the statutes that a policy covering motor vehicle liability must include uninsured motorist coverage. The bill requires an insurer that writes umbrella or excess liability policies that cover motor vehicle liability to make a written offer of both uninsured motorist coverage and underinsured motorist coverage whenever application is made for such an umbrella or excess liability policy. The bill also requires an insurer to make a written offer of uninsured motorist coverage at the first renewal after the effective date of the bill of such a policy that does not include that coverage and a written offer of underinsured motorist coverage at the first renewal after the effective date of the bill of such a policy that does not include that coverage. An applicant or insured may reject the coverage, but must do so in writing. The bill provides that, if an insurer fails to provide a required written offer of uninsured or underinsured motorist coverage and an umbrella or excess liability policy does not include the coverage, or coverages, for which an offer was not given, a court must, on the request of the insured, reform the policy to include the coverage or coverages with the same limits as the liability coverage limits under the policy. This result modifies the decision of the Wisconsin Supreme Court in *Stone v. Acuity*, 2008 WI 30, 308 Wis. 2d 558, 747 N.W. 2d 766. In that case, the insurer had failed to provide notice of the availability of underinsured coverage for an umbrella insurance policy and the policy did not include that coverage. The court determined that in such a case the policy should be reformed to include underinsured coverage in the minimum amount that is required under the statute (\$50,000 per person and \$100,000 per accident).

(END OF INSERT A-4)

INSERT A-5

Finally, the bill prohibits a health insurer from refusing to cover health care services provided to an insured on the basis that there may be coverage for those services under a liability insurance policy.

(END OF INSERT A-5)

INSERT 3-6

- 1 **SECTION 1.** 121.555 (2) (a) of the statutes is amended to read:
- 2 ✓ 121.555 (2) (a) *Insurance*. If the vehicle is owned or leased by a school or a
- 3 school bus contractor, or is a vehicle authorized under sub. (1) (b), it shall comply with
- 4 s. 121.53. If the vehicle is transporting 9 or less persons in addition to the operator
- 5 and is not owned or leased by a school or by a school bus contractor, it shall be insured
- 6 by a policy providing property damage coverage with a limit of not less than \$10,000
- ↓

Ens 3-6 cont'd

1 \$25,000 and bodily injury liability coverage with limits of not less than \$25,000
2 \$100,000 for each person, and, subject to the limit for each person, a total limit of not
3 less than \$50,000 \$300,000 for each accident.

History: 1983 a. 175; 1985 a. 100, 240, 332, 351; 1987 a. 3, 358; 1989 a. 105, 176, 359; 1991 a. 39, 277; 1995 a. 113; 2003 a. 280.

4 **SECTION 2. 344.01 (2) (d) of the statutes is amended to read:**

5 344.01 (2) (d) "Proof of financial responsibility" or "proof of financial
6 responsibility for the future" means proof of ability to respond in damages for
7 liability on account of accidents occurring subsequent to the effective date of such
8 proof, arising out of the maintenance or use of a motor vehicle in the amount of
9 \$25,000 \$100,000 because of bodily injury to or death of one person in any one
10 accident and, subject to such limit for one person, in the amount of \$50,000 \$300,000
11 because of bodily injury to or death of 2 or more persons in any one accident and in
12 the amount of \$10,000 \$25,000 because of injury to or destruction of property of
13 others in any one accident.

History: 1971 c. 277; 1973 c. 90; 1977 c. 293; 1981 c. 284; 1985 a. 187; Sup. Ct. Order, 146 Wis. 2d 441 (1988); 1997 a. 27; 2001 a. 90.

14 **SECTION 3. 344.15 (1) of the statutes is amended to read:**

15 344.15 (1) No policy or bond is effective under s. 344.14 unless issued by an
16 insurer authorized to do an automobile liability or surety business in this state,
17 except as provided in sub. (2), or unless the policy or bond is subject, if the accident
18 has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not
19 less than \$25,000 \$100,000 because of bodily injury to or death of one person in any
20 one accident and, subject to that limit for one person, to a limit of not less than
21 \$50,000 \$300,000 because of bodily injury to or death of 2 or more persons in any one
22 accident and, if the accident has resulted in injury to or destruction of property, to



Ins 3-6 cont'd

1 a limit of not less than \$10,000 \$25,000 because of injury to or destruction of property
2 of others in any one accident.

History: 1975 c. 55; 1977 c. 29 s. 1654 (7) (b); 1977 c. 60, 293, 418; 1979 c. 102; 1981 c. 284; 1985 a. 29.

3 **SECTION 4. 344.33 (2) of the statutes is amended to read:**

4 344.33 (2) MOTOR VEHICLE LIABILITY POLICY. A motor vehicle policy of liability
5 insurance shall insure the person named therein using any motor vehicle with the
6 express or implied permission of the owner, or shall insure any motor vehicle owned
7 by the named insured and any person using such motor vehicle with the express or
8 implied permission of the named insured, against loss from the liability imposed by
9 law for damages arising out of the maintenance or use of the motor vehicle within
10 the United States of America or the Dominion of Canada, subject to the limits
11 exclusive of interest and costs, with respect to each such motor vehicle as follows:
12 \$25,000 \$100,000 because of bodily injury to or death of one person in any one
13 accident and, subject to such limit for one person, \$50,000 \$300,000 because of bodily
14 injury to or death of 2 or more persons in any one accident, and \$10,000 \$25,000
15 because of injury to or destruction of property of others in any one accident.

History: 1973 c. 90, 243; 1975 c. 147 s. 54; 1977 c. 293, 1979 c. 102 ss. 43, 236 (3), (4); 1981 c. 284; 1999 a. 80.

(END OF INSERT 3-6)

INSERT 6-2

16 **SECTION 5. 632.32 (4) (intro.) of the statutes is renumbered 632.32 (4) (a)**
17 **(intro.) and amended to read:**

18 632.32 (4) (a) REQUIRED UNINSURED MOTORIST AND MEDICAL PAYMENTS COVERAGES.
19 (intro.) Every policy of insurance subject to this section that insures with respect to
20 any motor vehicle registered or principally garaged in this state against loss
21 resulting from liability imposed by law for bodily injury or death suffered by any
22 person arising out of the ownership, maintenance, or use of a motor vehicle shall

↓

Ins 6-2 contd

1 contain therein or supplemental thereto ~~the following~~ provisions for all of the
2 following coverages:✓

History: 1975 c. 375, 421; 1979 c. 102, 104; 1979 c. 177 ss. 67, 68; 1979 c. 221; 1981 c. 284; 1983 a. 243, 459; 1985 a. 146 s. 8; 1995 a. 21, 448; 1997 a. 48; 1999 a. 31, 162; 2007 a. 168.✓

(END OF INSERT 6-2)

INSERT 8-15

3 *X* (d) If an umbrella or excess liability policy that was issued on or after the
4 effective date of this paragraph [LRB inserts date], or an umbrella or excess
5 liability policy that was in effect on, but renewed after, the effective date of this
6 paragraph [LRB inserts date], includes neither uninsured motorist coverage nor
7 underinsured motorist coverage, or only one of the coverages, and the insurer did not
8 provide a written offer required under par. (b) 1. or 2. with respect to the coverage
9 or coverages not included, on the request of the insured the court shall reform the
10 policy to include the coverage or coverages not included and for which the insurer did
11 not provide a written offer, with the same limits as the liability coverage limits under
12 the policy.✓

(END OF INSERT 8-15)

INSERT 9-24

13 **SECTION 6.** *X* 632.845 of the statutes is created to read:✓
14 *✓* **632.845 Prohibiting refusal to cover services because liability policy**
15 **may cover.** *✓* (1) In this section, "health care plan" has the meaning given in s. 628.36
16 (2) (a) 1. *✓*
17 (2) An insurer that provides coverage under a health care plan may not refuse
18 to cover health care services that are provided to an insured under the plan and for

Ins 9-24 contd

1 which there is coverage under the plan on the basis that there may be coverage for
2 the services under a liability insurance policy. ✓

(END OF INSERT 9-24)

INSERT 10-6

3 *2* ~~(1)~~ FINANCIAL RESPONSIBILITY. ✓

4 (a) The treatment of section 344.15 (1) of the statutes first applies with respect
5 to accidents occurring on the effective date of this paragraph. ✓

6 (b) The treatment of sections 344.01 (2) (d) and 344.33 (2) of the statutes first
7 applies to proof of financial responsibility or proof of financial responsibility for the
8 future that is furnished on the effective date of this paragraph. ✓

9 *3* ~~(1)~~ PAYMENT FOR HEALTH CARE SERVICES. ✓

10 (a) Subject to paragraph (b), the treatment of section 632.845 of the statutes
11 first applies to claims for payment of health care services that are submitted on the *made*
12 effective date of this paragraph. ✓ *auto ref*

13 (b) If a health care plan that is in effect on the effective date of this paragraph
14 contains a provision that is inconsistent with the treatment of section 632.845 of the
15 statutes, the treatment of section 632.845 of the statutes first applies to that health
16 care plan on the date on which it is renewed. ✓

(END OF INSERT 10-6)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0525/2dn

PJK:.....

Date

gpi
Lbjk

In addition to increasing the applicable limits in ch. 344, I increased the limits in s. 121.555 (2) (a), but not in s. 616.72. Any changes? ✓

- > Note especially ^{carefully} how I treated the provision requiring a court to reform an umbrella or excess liability insurance policy with respect to uninsured and underinsured coverages. Any changes? ✓

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

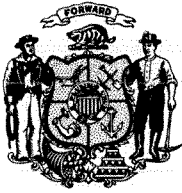
LRB-0525/P1dn
PJK:bjk:ph

October 23, 2008

In addition to increasing the applicable limits in ch. 344, I increased the limits in s. 121.555 (2) (a), but not in s. 616.72. Any changes?

Note especially carefully how I treated the provision requiring a court to reform an umbrella or excess liability insurance policy with respect to uninsured and underinsured coverages. Any changes?

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0525/P1
PJK:bjk:ph

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to repeal* 632.32 (4) (a) (title), 632.32 (4) (a) 2., 632.32 (4) (b) (title) and
2 632.32 (4m); *to renumber* 632.32 (2) (a) and 632.32 (2) (c); *to renumber and*
3 *amend* 632.32 (4) (intro.) (except 632.32 (4) (title)), 632.32 (4) (a) 3., 632.32 (4)
4 (b), 632.32 (5) (f), 632.32 (5) (g), 632.32 (5) (h), 632.32 (5) (i) and 632.32 (5) (j);
5 *to amend* 62.67, 121.555 (2) (a), 344.01 (2) (d), 344.15 (1), 344.33 (2), 631.43 (3),
6 632.32 (4) (title) and 632.32 (4) (a) 1.; and *to create* 632.32 (2) (am), 632.32 (2)
7 (cm), 632.32 (2) (d), 632.32 (2) (e), 632.32 (2) (f), 632.32 (2) (g), 632.32 (4) (a) 2m.,
8 632.32 (4) (bc), 632.32 (4r) and 632.845 of the statutes; **relating to:** uninsured
9 and underinsured motorist coverages, coverage limits for and prohibited
10 provisions in motor vehicle liability insurance policies, and prohibiting a
11 refusal to pay a health care claim on the basis that a liability insurance policy
12 is liable for payment.

Analysis by the Legislative Reference Bureau

Proof of financial responsibility

Current law does not generally require motor vehicles operated in this state to be covered by policies of bodily injury and property damage liability insurance.

However, current law imposes certain financial responsibility requirements on owners and operators of motor vehicles involved in accidents. If a motor vehicle accident results in injury, death, or property damage of \$1,000 or more, the Department of Transportation (DOT) is required to notify the operator and owner of the vehicle involved in the accident that the person must deposit with DOT security for the accident in an amount specified by DOT, which DOT has determined is sufficient to satisfy any judgment for damages resulting from the accident. Unless an exception applies, if a person fails to timely deposit security after this notice, DOT must suspend the person's operating privilege if the person was the vehicle operator and suspend all vehicle registrations of the person if the person was the vehicle owner. One of the exceptions is that the person provides proof of financial responsibility. In addition, if DOT receives a certified copy of a judgment for damages of \$500 or more arising out of a motor vehicle accident, DOT must immediately suspend the operating privilege and all registrations of the person against whom the judgment was rendered unless the person can provide proof of financial responsibility. In both situations, proof of financial responsibility includes coverage under a motor vehicle liability insurance policy with the following minimum limits for any single accident: \$25,000 for bodily injury to or death of one person, \$50,000 for bodily injury to or death of more than one person, and \$10,000 for property damage. This bill increases the minimum limits required under a policy that is acceptable proof of financial responsibility to \$100,000 for bodily injury to or death of one person, \$300,000 for bodily injury to or death of more than one person, and \$25,000 for property damage.

Uninsured motorist and medical payments coverages

Under current law, all motor vehicle liability insurance policies must include uninsured motorist coverage in limits of at least \$25,000 per person and \$50,000 per accident and medical payments coverage in the amount of at least \$1,000 per person. Uninsured motorist coverage provides coverage for persons who are legally entitled to recover damages for bodily injury from owners or operators of motor vehicles that are not insured. Medical payments coverage pays for medical or chiropractic services provided to persons who are injured while using the insured motor vehicle. The bill increases the level of uninsured motorist coverage that motor vehicle liability insurance policies must include to \$100,000 per person and \$300,000 per accident, and increases the level of medical payments coverage that those policies must include to \$10,000.

Underinsured motorist coverage

Current law, while not requiring that motor vehicle liability insurance policies include underinsured motorist coverage, requires insurers to provide written notice of the availability of that coverage to one insured under each policy written after October 1, 1995, that does not include the coverage, as well as to one insured under each motor vehicle liability insurance policy in effect on that date that did not include the coverage. If an insured accepts underinsured motorist coverage after receiving notice of its availability, the policy must include the coverage in limits of at least \$50,000 per person and \$100,000 per accident. Underinsured motorist coverage provides coverage for persons who are legally entitled to recover damages for bodily

injury from owners or operators of underinsured motor vehicles. "Underinsured motor vehicle" is not defined in the statutes.

The bill eliminates the requirement to provide notice of the availability of underinsured motorist coverage and requires every motor vehicle liability insurance policy to include that coverage in limits of at least \$100,000 per person and \$300,000 per accident. In addition, the bill defines an underinsured motor vehicle as a motor vehicle that is involved in an accident with an insured and which, at the time of the accident, was covered by a motor vehicle liability insurance policy with limits that are less than the amount needed to fully compensate the insured for his or her damages.

Umbrella and excess liability insurance policies

The Wisconsin Administrative Code exempts umbrella and excess liability insurance policies from the requirement under the statutes that a policy covering motor vehicle liability must include uninsured motorist coverage. Nothing in current law, however, exempts an insurer writing umbrella or excess liability insurance policies from the requirement to provide notice of the availability of underinsured motorist coverage. The bill affirmatively requires an insurer that writes umbrella or excess liability policies that cover motor vehicle liability to make a written offer of both uninsured motorist coverage and underinsured motorist coverage whenever application is made for such an umbrella or excess liability policy. The bill also requires an insurer to make a written offer of uninsured motorist coverage at the first renewal after the effective date of the bill of such a policy that does not include that coverage and a written offer of underinsured motorist coverage at the first renewal after the effective date of the bill of such a policy that does not include that coverage. An applicant or insured may reject the coverage, but must do so in writing. The bill provides that, if an insurer fails to provide a required written offer of uninsured or underinsured motorist coverage and the umbrella or excess liability policy does not include the coverage, or coverages, for which an offer was not given, a court must, on the request of the insured, reform the policy to include the coverage or coverages with the same limits as the liability coverage limits under the policy. This result modifies the decision of the Wisconsin Supreme Court in *Stone v. Acuity*, 2008 WI 30, 308 Wis. 2d 558, 747 N.W. 2d 766. In that case, the insurer had failed to provide notice of the availability of underinsured coverage for an umbrella insurance policy and the policy did not include that coverage. The court determined that in such a case the policy should be reformed to include underinsured coverage in the minimum amount that is required under the statute (\$50,000 per person and \$100,000 per accident).

Miscellaneous motor vehicle liability insurance provisions

Under current law, an uninsured motor vehicle is defined to include "an unidentified motor vehicle involved in a hit-and-run accident." The Wisconsin Supreme Court has held that, under this definition, actual contact is necessary. Consequently, uninsured motorist coverage does not apply if, for example, a motor vehicle is run off the road by another motor vehicle without actual contact between the two vehicles. The bill changes this so that actual contact is not necessary for

uninsured motorist coverage to apply. All that is required is that an unidentified motor vehicle be involved in the accident.

Current law specifies a number of provisions that are permissible in a motor vehicle liability insurance policy and a number of provisions that are prohibited in such a policy. The bill makes the following currently permissible provisions prohibited in a motor vehicle liability insurance policy:

1. Providing that, regardless of the number of policies, persons, or vehicles involved, the limits for coverage under the policy may not be added to the limits for similar coverage applying to other motor vehicles to determine an overall limit of coverage available for a person in any one accident.

2. Providing that the maximum amount of uninsured or underinsured motorist coverage available for bodily injury or death suffered by a person not using a motor vehicle in an accident (such as a pedestrian) is any single limit of uninsured or underinsured motorist coverage for any vehicle with respect to which the person is insured at the time of the accident.

3. Providing that the maximum amount of medical payments coverage available for bodily injury or death suffered by a person not using a motor vehicle in an accident is any single limit of medical payments coverage for any vehicle with respect to which the person is insured at the time of the accident.

4. Providing that the limits under the policy for uninsured or underinsured motorist coverage for bodily injury or death resulting from an accident shall be reduced by amounts paid or payable by or on behalf of a person or organization that is legally responsible for the bodily injury or death; amounts paid or payable under any worker's compensation law; or amounts paid or payable under any disability benefits laws.

5. Providing that any coverage under the policy does not apply to a loss resulting from the use of a motor vehicle that is owned by the named insured or a spouse or relative of the named insured who lives in the named insured's household, that is not described in the policy, and that is not covered under the terms of the policy as a newly acquired or replacement motor vehicle.

Requirement for health insurer to cover claims

Finally, the bill prohibits a health insurer from refusing to cover claims for health care services provided to an insured on the basis that there may be coverage for those services under a liability insurance policy.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 62.67 of the statutes is amended to read:

2 **62.67 Uninsured motorist coverage; 1st class cities.** A 1st class city shall
3 provide uninsured motorist motor vehicle liability insurance coverage for motor
4 vehicles owned by the city and operated by city employees in the course of

1 employment. The coverage required by this section shall have at least the limits
2 prescribed for uninsured motorist coverage under s. 632.32 (4) (a) 1.

3 **SECTION 2.** 121.555 (2) (a) of the statutes is amended to read:

4 121.555 (2) (a) *Insurance*. If the vehicle is owned or leased by a school or a
5 school bus contractor, or is a vehicle authorized under sub. (1) (b), it shall comply with
6 s. 121.53. If the vehicle is transporting 9 or less persons in addition to the operator
7 and is not owned or leased by a school or by a school bus contractor, it shall be insured
8 by a policy providing property damage coverage with a limit of not less than \$10,000
9 \$25,000 and bodily injury liability coverage with limits of not less than \$25,000
10 \$100,000 for each person, and, subject to the limit for each person, a total limit of not
11 less than ~~\$50,000~~ \$300,000 for each accident.

12 **SECTION 3.** 344.01 (2) (d) of the statutes is amended to read:

13 344.01 (2) (d) "Proof of financial responsibility" or "proof of financial
14 responsibility for the future" means proof of ability to respond in damages for
15 liability on account of accidents occurring subsequent to the effective date of such
16 proof, arising out of the maintenance or use of a motor vehicle in the amount of
17 ~~\$25,000~~ \$100,000 because of bodily injury to or death of one person in any one
18 accident and, subject to such limit for one person, in the amount of ~~\$50,000~~ \$300,000
19 because of bodily injury to or death of 2 or more persons in any one accident and in
20 the amount of ~~\$10,000~~ \$25,000 because of injury to or destruction of property of
21 others in any one accident.

22 **SECTION 4.** 344.15 (1) of the statutes is amended to read:

23 344.15 (1) No policy or bond is effective under s. 344.14 unless issued by an
24 insurer authorized to do an automobile liability or surety business in this state,
25 except as provided in sub. (2), or unless the policy or bond is subject, if the accident

1 has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not
2 less than ~~\$25,000~~ \$100,000 because of bodily injury to or death of one person in any
3 one accident and, subject to that limit for one person, to a limit of not less than
4 ~~\$50,000~~ \$300,000 because of bodily injury to or death of 2 or more persons in any one
5 accident and, if the accident has resulted in injury to or destruction of property, to
6 a limit of not less than ~~\$10,000~~ \$25,000 because of injury to or destruction of property
7 of others in any one accident.

8 **SECTION 5.** 344.33 (2) of the statutes is amended to read:

9 344.33 (2) MOTOR VEHICLE LIABILITY POLICY. A motor vehicle policy of liability
10 insurance shall insure the person named therein using any motor vehicle with the
11 express or implied permission of the owner, or shall insure any motor vehicle owned
12 by the named insured and any person using such motor vehicle with the express or
13 implied permission of the named insured, against loss from the liability imposed by
14 law for damages arising out of the maintenance or use of the motor vehicle within
15 the United States of America or the Dominion of Canada, subject to the limits
16 exclusive of interest and costs, with respect to each such motor vehicle as follows:
17 ~~\$25,000~~ \$100,000 because of bodily injury to or death of one person in any one
18 accident and, subject to such limit for one person, ~~\$50,000~~ \$300,000 because of bodily
19 injury to or death of 2 or more persons in any one accident, and ~~\$10,000~~ \$25,000
20 because of injury to or destruction of property of others in any one accident.

21 **SECTION 6.** 631.43 (3) of the statutes is amended to read:

22 631.43 (3) EXCEPTION. Subsection (1) does not affect the rights of insurers to
23 ~~exclude, limit or reduce~~ restrict coverage under s. 632.32 (5) (b), or (c) ~~or (f) to (j).~~

24 **SECTION 7.** 632.32 (2) (a) of the statutes is renumbered 632.32 (2) (at).

25 **SECTION 8.** 632.32 (2) (am) of the statutes is created to read:

1 632.32 (2) (am) "Medical payments coverage" means coverage to indemnify for
2 medical payments or chiropractic payments or both for the protection of all persons
3 using the insured motor vehicle from losses resulting from bodily injury or death.

4 **SECTION 9.** 632.32 (2) (c) of the statutes is renumbered 632.32 (2) (h).

5 **SECTION 10.** 632.32 (2) (cm) of the statutes is created to read:

6 632.32 (2) (cm) "Umbrella or excess liability policy" means an insurance
7 contract providing at least \$1,000,000 of liability coverage per person or per
8 occurrence in excess of certain required underlying liability insurance coverage or
9 a specified amount of self-insured retention.

10 **SECTION 11.** 632.32 (2) (d) of the statutes is created to read:

11 632.32 (2) (d) "Underinsured motor vehicle" means a motor vehicle to which all
12 of the following apply:

13 1. The motor vehicle is involved in an accident with a person who has
14 underinsured motorist coverage.

15 2. A bodily injury liability insurance policy applies to the motor vehicle at the
16 time of the accident.

17 3. The limits under the bodily injury liability insurance policy are less than the
18 amount needed to fully compensate the insured for his or her damages.

19 **SECTION 12.** 632.32 (2) (e) of the statutes is created to read:

20 632.32 (2) (e) "Underinsured motorist coverage" means coverage for the
21 protection of persons insured under that coverage who are legally entitled to recover
22 damages for bodily injury, death, sickness, or disease from owners or operators of
23 underinsured motor vehicles.

24 **SECTION 13.** 632.32 (2) (f) of the statutes is created to read:

632.32 (2) (f) "Uninsured motor vehicle" means a motor vehicle that is involved in an accident with a person who has uninsured motorist coverage and with respect to which, at the time of the accident, a bodily injury liability insurance policy is not in effect and the owner or operator has not furnished proof of financial responsibility for the future under subch. III of ch. 344. "Uninsured motor vehicle" also includes both of the following motor vehicles involved in an accident with a person who has uninsured motorist coverage:

1. An insured motor vehicle if before or after the accident the liability insurer of the motor vehicle is declared insolvent by a court of competent jurisdiction.

2. An unidentified motor vehicle.

SECTION 14. 632.32 (2) (g) of the statutes is created to read:

632.32 (2) (g) "Uninsured motorist coverage" means coverage for the protection of persons insured under that coverage who are legally entitled to recover damages for bodily injury, death, sickness, or disease from owners or operators of uninsured motor vehicles.

SECTION 15. 632.32 (4) (title) of the statutes is amended to read:

632.32 (4) (title) REQUIRED UNINSURED MOTORIST, UNDERINSURED MOTORIST, AND MEDICAL PAYMENTS COVERAGES.

SECTION 16. 632.32 (4) (intro.) (except 632.32 (4) (title)) of the statutes is renumbered 632.32 (4) (a) (intro.) and amended to read:

632.32 (4) (a) (intro.) Every policy of insurance subject to this section that insures with respect to any motor vehicle registered or principally garaged in this state against loss resulting from liability imposed by law for bodily injury or death suffered by any person arising out of the ownership, maintenance, or use of a motor

1 vehicle shall contain therein or supplemental thereto ~~the following provisions for all~~
2 of the following coverages:

3 **SECTION 17.** 632.32 (4) (a) (title) of the statutes is repealed.

4 **SECTION 18.** 632.32 (4) (a) 1. of the statutes is amended to read:

5 632.32 (4) (a) 1. ~~For the protection of persons injured who are legally entitled~~
6 ~~to recover damages from owners or operators of uninsured motor vehicles because~~
7 ~~of bodily injury, sickness or disease, including death resulting therefrom~~ Uninsured
8 motorist coverage, in limits of at least \$25,000 \$100,000 per person and \$50,000
9 \$300,000 per accident.

10 **SECTION 19.** 632.32 (4) (a) 2. of the statutes is repealed.

11 **SECTION 20.** 632.32 (4) (a) 2m. of the statutes is created to read:

12 632.32 (4) (a) 2m. Underinsured motorist coverage, in limits of at least
13 \$100,000 per person and \$300,000 per accident.

14 **SECTION 21.** 632.32 (4) (a) 3. of the statutes is renumbered 632.32 (4) (c) and
15 amended to read:

16 632.32 (4) (c) ~~Insurers~~ Unless an insurer waives the right to subrogation,
17 insurers making payment under ~~the uninsured motorists' coverage~~ any of the
18 coverages under this subsection shall, to the extent of the payment, be subrogated
19 to the rights of their insureds.

20 **SECTION 22.** 632.32 (4) (b) (title) of the statutes is repealed.

21 **SECTION 23.** 632.32 (4) (b) of the statutes is renumbered 632.32 (4) (a) 3m. and
22 amended to read:

23 632.32 (4) (a) 3m. ~~To indemnify for medical payments or chiropractic payments~~
24 ~~or both~~ Medical payments coverage, in the amount of at least \$1,000 \$10,000 per
25 person ~~for protection of all persons using the insured motor vehicle from losses~~

1 ~~resulting from bodily injury or death. The named insured may reject the coverage.~~
2 ~~If the named insured rejects the coverage, it need not be provided in a subsequent~~
3 ~~renewal policy issued by the same insurer unless the insured requests it in writing.~~
4 ~~Under the medical or chiropractic payments coverage, the insurer shall be~~
5 ~~subrogated to the rights of its insured to the extent of its payments. Coverage written~~
6 ~~under this paragraph subdivision may be excess coverage over any other source of~~
7 ~~reimbursement to which the insured person has a legal right.~~

8 **SECTION 24.** 632.32 (4) (bc) of the statutes is created to read:

9 632.32 (4) (bc) Notwithstanding par. (a) 3m., the named insured may reject
10 medical payments coverage. If the named insured rejects the coverage, the coverage
11 need not be provided in a subsequent renewal policy issued by the same insurer
12 unless the insured requests it in writing.

13 **SECTION 25.** 632.32 (4m) of the statutes is repealed.

14 **SECTION 26.** 632.32 (4r) of the statutes is created to read:

15 632.32 (4r) REQUIRED WRITTEN OFFERS OF UNINSURED MOTORIST AND
16 UNDERINSURED MOTORIST COVERAGES FOR UMBRELLA OR EXCESS LIABILITY POLICIES. (a)
17 An insurer writing umbrella or excess liability policies that insure with respect to a
18 motor vehicle registered or principally garaged in this state against loss resulting
19 from liability imposed by law for bodily injury or death suffered by a person arising
20 out of the ownership, maintenance, or use of a motor vehicle shall provide written
21 offers of uninsured motorist coverage and underinsured motorist coverage, which
22 offers shall include a brief description of the coverage offered. An insurer is required
23 to provide the offers required under this subsection only one time with respect to any
24 policy in the manner provided in par. (b).

1 (b) 1. Each application for an umbrella or excess liability policy issued on or
2 after the effective date of this subdivision [LRB inserts date], shall contain a
3 written offer of uninsured motorist coverage and a written offer of underinsured
4 motorist coverage.

5 2. For umbrella or excess liability policies that are in effect on the effective date
6 of this subdivision [LRB inserts date], the insurer shall provide a written offer of
7 uninsured motorist coverage to the named insureds under each policy that does not
8 include uninsured motorist coverage and a written offer of underinsured motorist
9 coverage to the named insureds under each policy that does not include
10 underinsured motorist coverage. The insurer shall provide an offer under this
11 subdivision in conjunction with the notice of the first renewal of the policy occurring
12 after the effective date of this subdivision [LRB inserts date].

13 (c) An applicant or named insureds may reject one or both of the coverages
14 offered, but must do so in writing. If the applicant or named insureds reject either
15 of the coverages offered, the insurer is not required to provide the rejected coverage
16 under a policy that is renewed to the person by that insurer unless an insured under
17 the policy subsequently requests the rejected coverage in writing.

18 (d) If an umbrella or excess liability policy that was issued on or after the
19 effective date of this paragraph [LRB inserts date], or an umbrella or excess
20 liability policy that was in effect on, but renewed after, the effective date of this
21 paragraph [LRB inserts date], includes neither uninsured motorist coverage nor
22 underinsured motorist coverage, or only one of the coverages, and the insurer did not
23 provide a written offer required under par. (b) 1. or 2. with respect to the coverage
24 or coverages not included, on the request of the insured the court shall reform the
25 policy to include the coverage or coverages not included and for which the insurer did

1 not provide a written offer, with the same limits as the liability coverage limits under
2 the policy.

3 **SECTION 27.** 632.32 (5) (f) of the statutes is renumbered 632.32 (6) (d) and
4 amended to read:

5 632.32 (6) (d) ~~-A~~ No policy may provide that, regardless of the number of
6 policies involved, vehicles involved, persons covered, claims made, vehicles or
7 premiums shown on the policy, or premiums paid, the limits for any coverage under
8 the policy may not be added to the limits for similar coverage applying to other motor
9 vehicles to determine the limit of insurance coverage available for bodily injury or
10 death suffered by a person in any one accident.

11 **SECTION 28.** 632.32 (5) (g) of the statutes is renumbered 632.32 (6) (e) and
12 amended to read:

13 632.32 (6) (e) ~~A~~ No policy may provide that the maximum amount of uninsured
14 motorist coverage or underinsured motorist coverage available for bodily injury or
15 death suffered by a person who was not using a motor vehicle at the time of an
16 accident is ~~the highest~~ any single limit of uninsured motorist coverage or
17 underinsured motorist coverage, whichever is applicable, for any motor vehicle with
18 respect to which the person is insured.

19 **SECTION 29.** 632.32 (5) (h) of the statutes is renumbered 632.32 (6) (f) and
20 amended to read:

21 632.32 (6) (f) ~~A~~ No policy may provide that the maximum amount of medical
22 payments coverage available for bodily injury or death suffered by a person who was
23 not using a motor vehicle at the time of an accident is ~~the highest~~ any single limit of
24 medical payments coverage for any motor vehicle with respect to which the person
25 is insured.

1 **SECTION 30.** 632.32 (5) (i) of the statutes is renumbered 632.32 (6) (g), and
2 632.32 (6) (g) (intro.), as renumbered, is amended to read:

3 632.32 (6) (g) (intro.) ~~A~~ No policy may provide that the limits under the policy
4 for uninsured motorist coverage or underinsured motorist coverage for bodily injury
5 or death resulting from any one accident shall be reduced by any of the following that
6 apply:

7 **SECTION 31.** 632.32 (5) (j) of the statutes is renumbered 632.32 (6) (h), and
8 632.32 (6) (h) (intro.), as renumbered, is amended to read:

9 632.32 (6) (h) (intro.) ~~A~~ No policy may provide that any coverage under the
10 policy does not apply to a loss resulting from the use of a motor vehicle that meets
11 all of the following conditions:

12 **SECTION 32.** 632.845 of the statutes is created to read:

13 **632.845 Prohibiting refusal to cover services because liability policy**
14 **may cover.** (1) In this section, "health care plan" has the meaning given in s. 628.36
15 (2) (a) 1.

16 (2) An insurer that provides coverage under a health care plan may not refuse
17 to cover health care services that are provided to an insured under the plan and for
18 which there is coverage under the plan on the basis that there may be coverage for
19 the services under a liability insurance policy.

20 **SECTION 33. Initial applicability.**

21 (1) **MOTOR VEHICLE INSURANCE COVERAGES.** The treatment of sections 62.67,
22 121.555 (2) (a), 631.43 (3), and 632.32 (2) (a), (am), (c), (cm), (d), (e), (f), and (g), (4)
23 (title), (intro.), (a) (title), 1., 2., 2m., and 3., (bc), (4m), and (5) (f), (g), (h), (i), and (j)
24 of the statutes, the repeal of section 632.32 (4) (b) (title) of the statutes, and the
25 renumbering and amendment of section 632.32 (4) (b) of the statutes first apply to

1 motor vehicle insurance policies issued or renewed on the effective date of this
2 subsection.

3 (2) **FINANCIAL RESPONSIBILITY.**

4 (a) The treatment of section 344.15 (1) of the statutes first applies with respect
5 to accidents occurring on the effective date of this paragraph.

6 (b) The treatment of sections 344.01 (2) (d) and 344.33 (2) of the statutes first
7 applies to proof of financial responsibility or proof of financial responsibility for the
8 future that is furnished on the effective date of this paragraph.

9 (3) **PAYMENT FOR HEALTH CARE SERVICES.**

10 (a) Subject to paragraph (b), the treatment of section 632.845 of the statutes
11 first applies to claims for payment of health care services that are made on the
12 effective date of this paragraph.

13 (b) If a health care plan that is in effect on the effective date of this paragraph
14 contains a provision that is inconsistent with the treatment of section 632.845 of the
15 statutes, the treatment of section 632.845 of the statutes first applies to that health
16 care plan on the date on which it is renewed.

17 **SECTION 34. Effective date.**

18 (1) This act takes effect on the first day of the 5th month beginning after
19 publication.

20 (END)